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8 Attorney for Plaintiff
9 KATRINA POWERS

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

KATRINA POWERS,
Plaintiff,
v.
KILOLO KIJAKAZI, Acting
Commissioner of Social Security,
Defendant.

Case No. 1:22-cv-01034-SKO
ORDER GRANTING STIPULATION
AND UNOPPOSED MOTION FOR THE
AWARD AND PAYMENT OF
ATTORNEY FEES AND EXPENSES
PURSUANT TO THE EQUAL ACCESS
TO JUSTICE ACT

(Doc. 19)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of \$7,000.00, under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d), 1920.

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to

1 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
2 to honor the assignment will depend on whether the fees are subject to any offset
3 allowed under the United States Department of the Treasury's Offset Program. After
4 the order for EAJA fees is entered, the government will determine whether they are
5 subject to any offset.

6 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
7 determines that Plaintiff does not owe a federal debt, then the government shall cause
8 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,
9 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

10 This stipulation constitutes a compromise settlement of Plaintiff's request for
11 EAJA attorney fees and does not constitute an admission of liability on the part of
12 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
13 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
14 Francesco Benavides, including the Law Offices of Francesco Benavides, may have
15 relating to EAJA attorney fees in connection with this action.

16 This award is without prejudice to the rights of Francesco Benavides to seek
17 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
18 clause provisions of the EAJA.

19
20 Respectfully submitted,

21
22 Dated: March 15, 2023

Law Offices of Francesco Benavides

23
24 By: /s/ Francesco Benavides
25 FRANCESCO P. BENAVIDES
26 Attorney for Plaintiff

1 Dated: March 15, 2023

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

5 By: Caspar Chan*
6 CASPAR CHAN
7 Special Assistant U.S. Attorney
8 Attorneys for Defendant
9 (*Permission to use electronic signature
obtained via email on March 15, 2023).

10 **ORDER**

11 Based upon the foregoing Stipulation and Unopposed Motion for the Award and
12 Payment of Equal Access to Justice Act Fees and Expenses (Doc. 19),

14 **IT IS ORDERED** that fees and expenses in the amount of \$7,000.00 as authorized
15 by 28 U.S.C. § 2412, and no costs under 28 U.S.C. § 1920, be awarded subject to the
16 terms of the Stipulation.

18
19 IT IS SO ORDERED.

20 Dated: March 16, 2023

/s/ Sheila K. Oberto
21 UNITED STATES MAGISTRATE JUDGE